

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL ACTION NO. 1:16-CV-326-RLV-DCK**

DANA ALEXANDER,

Plaintiffs,

v.

NANCY A. BERRYHILL,
ACTING COMMISSIONER OF SOCIAL
SECURITY,¹

Defendants.

ORDER

THIS MATTER IS BEFORE THE COURT on Defendant’s “Motion for Extension of Time to File Answer” [Doc. 7] filed December 5, 2016; “Motion for Extension of Time to File Answer” [Doc. 8] filed December 19, 2016; and “Consent Motion for Remand” [Doc. 9] filed January 9, 2017. On January 12, 2017, Magistrate Judge David Keesler issued a memorandum and recommendation that Defendant’s “Consent Motion for Remand” be granted, and that the underlying decision of the Commissioner be reversed and this matter be remanded to the Commissioner for further administrative proceedings. [Doc. 10]. Additionally, Judge Keesler recommended that both of Defendant’s motions for extension of time [Doc. 7 and 8] be denied as moot. Defendant seeks, and Plaintiff consents to, the remand of this action pursuant to sentence four of 42 U.S.C. § 405(g). [Doc. 9].

¹ Nancy A. Berryhill became Acting Commissioner of Social Security on January 23, 2017. The Clerk is directed to substitute Nancy A. Berryhill for Carolyn W. Colvin as the Defendant in this matter. *See* Fed. R. Civ. P. 25(d); *see also* 42 U.S.C. § 405(g) (“Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Commissioner of Social Security or any vacancy in such office.”).

IT IS, THEREFORE, ORDERED THAT

- (1) The Memorandum and Recommendation [Doc. 10] is **ADOPTED**;
- (2) The Commissioner's underlying decision is **REVERSED**;
- (3) This matter is **REMANDED** to the Commissioner for further administrative proceedings;
- (4) Defendant's Motion for Extension of Time to File Answer [Doc. 7] is **DENIED AS MOOT**; and
- (5) Defendant's Motion for Extension of Time to File Answer [Doc. 8] is **DENIED AS MOOT**.

Signed: March 14, 2017



Richard L. Voorhees
United States District Judge

